

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRADLEY CUSATIS, JR., Personal
Representative of the Estate of BRADLEY
G. CUSATIS, SR.,

CASE NO: 8:12-CV-72

Plaintiff,

v.

AMENDED PETITION OF REMOVAL

LEO TRUCKING, INC. and AJAIB S.
NANREH,

Defendants.

COME NOW the defendants and hereby remove the action styled as IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA, BRADLEY CUSATIS, JR., Personal Representative of the Estate of BRADLEY G. CUSATIS, SR., Plaintiff, v. LEO TRUCKING, INC. and AJAIB S. NANREH, Defendants, CASE NO: CI-11-4798, to the United States District Court for the District of Nebraska. In support of this removal, defendants have attached to this pleading the Complaint and Demand for Jury Trial served upon them, as well as the summons issued for each defendant. Defendants further show to the Court as follows:

1. Removal is proper in that plaintiff is a resident of the State of Nebraska while each defendant is a resident of Brampton, Ontario, Canada; therefore, diversity exists.

2. This is a negligence-based action seeking recovery for the claimed wrongful death of Bradley G. Cusatis, Sr. Plaintiff seeks recovery for Bradley G. Cusatis, Sr.'s medical, funeral, and burial costs; plaintiff also seeks a recovery for the next-of-kin and heirs for the care, comfort, companionship, services, society, contributions, counseling, advise, love, and affection lost because of the wrongful death of 44-year-old Bradley G. Cusatis, Sr.; plaintiff seeks special damages, general damages, prejudgment interest, post-judgment interest, and costs. The amount

in controversy exceeds \$75,000.00. Therefore this court has jurisdiction pursuant to 28 U.S.C. section 1332.

3. Defendants were served with process in this matter on February 14, 2012 and have made a timely removal of the matter to the United States District Court for the District of Nebraska.

4. Contemporaneously with the filing of this removal, defendants are serving upon plaintiff's counsel a notification of removal, as well as notifying the district court of Lancaster County of the removal.

5. Also contemporaneously with the filing of this notice of removal, defendants are filing an answer to the plaintiff's complaint.

WHEREFORE, defendants remove the matter identified in paragraph 1 above to the United States District Court for the District of Nebraska.

Dated February 21, 2012.

LEO TRUCKING, INC. AND AJAIB S.
NANREH, Defendants,

By: /s/ Jerald L. Rauterkus

Jerald L. Rauterkus, #18151
ERICKSON | SEDERSTROM, P.C.
10330 Regency Parkway Drive
Omaha, NE 68114
(402) 397-2200
(402) 390-7137 Fax
jlr@eslaw.com
Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing AMENDED NOTICE OF REMOVAL was served on February 21, 2012 upon:

Peter C. Wegman
Rembolt Ludtke LLP
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

by: ☐ U.S. Mail, postage prepaid
☒ Electronic filing
☐ E-mail
☐ Facsimile Transmission
☐ Hand Delivery
☐ Overnight Courier
☐ Certified Mail, Return Receipt Requested

/s/ Gerald L. Rauterkus

*** EFILED ***

Case Number: D 02 CI 11 0004798

Transaction ID: 0000143410

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IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

BRADLEY CUSATIS, JR., Personal)
 Representative of the Estate of)
 Bradley G. Cusatis, Sr.,)

Plaintiff,)

vs.)

LEO TRUCKING, INC. and AJAIB S.)
 NANREH,)

Defendants.)

CASE NO. CI 11- 4798

**COMPLAINT AND
 DEMAND FOR JURY TRIAL**

Plaintiff Bradley Cusatis, Jr., Personal Representative of the Estate of Bradley G. Cusatis, Sr., deceased, by and through his attorneys, Rembolt Ludtke LLP and Willet & Carothers, sets forth his causes of action against Defendants.

PARTIES

1. Plaintiff Bradley Cusatis, Jr. ("Plaintiff") is of legal age and is the duly appointed, qualified, and acting Personal Representative of the Estate of Bradley G. Cusatis, Sr. ("Decedent"), having been appointed by the County Court of Lancaster County, Nebraska on March 17, 2011. Plaintiff is the son of Decedent. Plaintiff is, and during all times relevant hereto has been, a resident of Gage County, Nebraska. Plaintiff brings this action as Personal Representative for the benefit of Decedent's Estate and the next of kin and heirs at law of Decedent.

2. Defendant Leo Trucking, Inc. ("Leo Trucking") is a Canadian Corporation with its principal place of business in Brampton, Ontario, doing business in the State of Nebraska. Leo Trucking is registered with the U.S. Department of Transportation under DOT number 2000752.

3. Defendant Ajaib S. Nanreh ("Nanreh") is an individual residing in Brampton, Ontario, Canada. At all times relevant hereto, Nanreh was subject to the Federal Motor Carrier Safety Regulations contained in 49 C.F.R. and NEB. REV. STAT. § 75-363 *et al.*

4. Nanreh was an employee and/or agent of Leo Trucking on the date of the accident and was acting within the scope and course of the business of Leo Trucking.

5. Venue is proper in Lancaster County because all defendants are nonresidents of the State of Nebraska.

FACTUAL BACKGROUND

6. The provisions of 49 C.F.R. §§ 301-399, commonly referred to as the "Federal Motor Carrier Safety Regulations" or "FMCSR" are applicable to this case and Leo Trucking and Nanreh were required to obey these regulations at the time of the collision and at all relevant times prior to the collision.

7. On or about December 15, 2010, Nanreh was operating a semi-tractor and semi-trailer (together, the "Trailer") owned by Leo Trucking, traveling eastbound on Interstate 80 in York County, Nebraska, in the course and scope of Nanreh's employment with Leo Trucking.

8. On or about December 15, 2010, Decedent was the passenger in a 1997 Mazda PLX sedan ("Sedan"), traveling eastbound on Interstate 80 in York County, some distance behind Leo Trucking's Trailer, being operated by Brandon L. Taylor ("Taylor").

9. The weather conditions on December 15, 2010 included freezing drizzle and rain.

10. As a result of the weather conditions, the road at the location of the collision herein was icy.

11. On December 15, 2010, sometime before 7:04 p.m., Nanreh lost control of the Trailer, slid into the median, came back into the roadway and collided with the Sedan.

12. As a result of the collision, Decedent sustained severe personal injuries, which resulted in his death.

13. Decedent's injuries and resulting death were a direct and proximate cause of Defendant Nanreh's negligence.

14. Defendant Nanreh's negligence is imputed upon Defendant Leo's Trucking, Inc. because his negligence occurred within the course and scope of his employment.

FIRST CAUSE OF ACTION
MEDICAL, FUNERAL AND BURIAL EXPENSES

15. Plaintiff incorporates Paragraphs 1 through 17 above as if fully set forth herein.

16. As a direct and proximate result of Decedent's death, Plaintiff as Personal Representative incurred funeral and burial expenses in the amount of \$7,084.00.

WHEREFORE, Plaintiff prays for relief as more fully set forth below.

SECOND CAUSE OF ACTION
WRONGFUL DEATH

17. Plaintiff incorporates paragraphs 1 through 17 above as if fully set forth herein.

18. As a direct and proximate result of the negligence of Leo Trucking, Inc. and Ajaib S. Nanreh, Decedent was killed.

19. Decedent was 44 years old at the time of his death.

20. Decedent's death has caused Decedent's next of kin and heirs at law to lose Decedent's comfort, companionship, services, society, contributions, counseling, advice, love, and affection, all to the general damage of Decedent's next of kin and heirs at law.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, for special damages in the amount yet to be determined; for general damages in an amount yet to be determined; for \$7,084.00 for the medical, funeral and burial expenses incurred by Plaintiff; for

prejudgment interest on any judgment as allowed by law; for post judgment interest; and for his costs expended herein.

DATED: November 23, 2011

Bradley Cusatis, Jr. Personal Representative
for the Estate of Bradley G. Cusatis, Sr.,
Plaintiff

By: REMBOLT LUDTKE LLP
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508
(402) 475-5100
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dklaus@remboltludtke.com
mrichardson@remboltludtke.com

By: /s/ Peter C. Wegman
Peter C. Wegman (#16685)
Daniel E. Klaus (#17889)
Mark R. Richardson (#24719)

By: WILLET & CAROTHERS
2205 N. 6th Street, #10A
P.O. Box 218
Beatrice, NE 68310
willetlaw@diodecome.net

By: /s/ Michael E. Willet
Michael E. Willet (#16688)
Andrew K. Carothers (#19023)

PRAECIPE

TO THE CLERK OF SAID COURT:

Please issue summonses in the above-captioned cause for service in accordance with the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (a.k.a "The Hague Service Convention") upon:

Sukhwinder Singh, Director
Leo Trucking, Inc.
20 Sal Circle
Brampton, ON L6R 1G9, CANADA

Ajaib S. Nanreh
191 Kingknoll Dr.
Brampton, ON L6Y 4N6, CANADA

and forward said summonses to Rembolt Ludtke LLP, 1201 Lincoln Mall, Suite 102, Lincoln, NE 68508 who will then forward summonses and complaint to the Ministry of the Attorney General, Courts Administration, Haileybury, Ontario, Canada, in accordance with the Hague Service Convention.

By:



Peter C. Wegman (#16685)

Mark R. Richardson (#24719)

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Image ID:
D00364961D02

SUMMONS

Doc. No. 364961

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA
575 S. 10th Street - 3rd Floor
SEPARATE JUVENILE COURT-4th Floor
Lincoln NE 68508

Bradley Cusatis Jr. v. Leo Trucking, Inc.

Case ID: CI 11 4798

TO: Ajaib S Nanreh

FILED BY

Clerk of the Lancaster District Court
02/09/2012

You have been sued by the following plaintiff(s):

Bradley Cusatis Jr.

Plaintiff's Attorney: Mark R Richardson
Address: 1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

Telephone: (402) 475-5100

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: FEBRUARY 9, 2012 BY THE COURT:

John Kirkland
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Ajaib S Nanreh
Randy Hisey, Registered Agent
412 7th Ave.
S. Sioux City, NE 68776

Method of service: Certified Mail
Special Instructions:
Alias summons/Complaint filed 11/23/11 to be served.

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.

Image ID:
D00364938D02

SUMMONS

Doc. No. 364938

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA
575 S. 10th Street - 3rd Floor
SEPARATE JUVENILE COURT-4th Floor
Lincoln NE 68508

Bradley Cusatis Jr. v. Leo Trucking, Inc.

Case ID: CI 11 4798

TO: Leo Trucking, Inc.

FILED BY
Clerk of the Lancaster District Court
02/09/2012

You have been sued by the following plaintiff(s):

Bradley Cusatis Jr.

Plaintiff's Attorney: Mark R Richardson
Address: 1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

Telephone: (402) 475-5100

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: FEBRUARY 9, 2012 BY THE COURT:

Sue M. Kirkland
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Leo Trucking, Inc.
C/O Randy Hisey, Registered Agent
412 7th Ave.
S. Sioux City, NE 68776

Method of service: Certified Mail
Special Instructions:
Alias Summons/Complaint filed 11/23/11 to be served.

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.